

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH C. JACKSON,	§
	§
Defendant Below-	§ No. 32, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ C.A. No. 07C-09-037
Plaintiff Below-	§
Appellee.	§

Submitted: June 23, 2009
Decided: August 20, 2009

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 20th day of August 2009, upon consideration of appellant's opening brief and the State's motion to dismiss or, alternatively, to affirm, it appears to the Court that:

(1) The appellant, Joseph Jackson, filed this appeal from a permanent abatement order issued by the Superior Court, which declared Jackson's property located at 2251 Downs Chapel Road in Clayton, Delaware, a drug nuisance. The State has filed a motion to dismiss the appeal on the grounds that Jackson has failed to diligently pursue his appeal because he filed his opening brief one day late and because his brief fails to set forth arguments capable of meaningful review. Alternatively, the State has moved to affirm the judgment below on the ground that

it is manifest on the face of Jackson's opening brief that the appeal is without merit. Because we find it manifest that there is no merit to the appeal, we affirm the substance of the Superior Court's judgment without addressing the State's contentions concerning the sufficiency of Jackson's brief.

(2) The testimony established that Detective Ronald Voshell of the Delaware State Police participated in five undercover purchases of cocaine from Jackson at his property over a two-month period. Ultimately, Jackson pled guilty to two counts of delivery of cocaine on December 16, 2008. On appeal, Jackson contends that his property could not be declared a drug nuisance, which requires proof of three "separate drug distribution events,"¹ because Jackson only pled guilty to two criminal charges. We disagree.

(3) Pursuant to 10 Del. C. § 7122, the Superior Court was only required to find three separate drug distribution events by a preponderance of the evidence, as long as one of the events formed the basis of a criminal prosecution.² In this case, Detective Voshell's testimony was sufficient to establish evidence of at least three drug distribution events by a preponderance of the evidence, regardless of Jackson's criminal convictions. Accordingly, we find no merit to Jackson's argument on appeal.

¹ 10 Del. C. § 7103(4)a (Supp. 2008)

² *Id.*

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice